

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ORDER

AND NOW, this 25th day of September 2013, upon consideration of the Motion to Dismiss of Defendant, Sgt. Robert Smith [Doc. No. 39], and the opposition thereto, and for the reasons stated in the accompanying Memorandum Opinion, it is hereby **ORDERED** that:

1. The Motion is **GRANTED** in part and **DENIED** in part.
2. The Motion is **GRANTED** as to the claims relating to the destruction or removal of legal papers and the spraying of mace into a nearby cell, which are **DISMISSED WITH PREJUDICE**.
3. The Motion is **DENIED** as to the claimed denial of medical treatment or decontamination after Plaintiff was exposed to the mace.
4. The case shall remain **CLOSED** until Defendant files an answer to the Amended Complaint, which shall be done within 21 days. Upon the filing of the answer the Clerk shall **RE-OPEN** the case and the Court will enter a scheduling order.

It is so ORDERED.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.